



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,409	12/29/2000	Atul N. Hatakar	10559-358001/P10035	7822

7590

02/16/2005

SCOTT C. HARRIS
Fish & Richardson P.C.
Suite 500
4350 La Jolla Village Drive
San Diego, CA 92122

EXAMINER

COFFY, EMMANUEL

ART UNIT

PAPER NUMBER

2157

DATE MAILED: 02/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/751,409	HATALKAR, ATUL N.	
	Examiner	Art Unit	
	Emmanuel Coffy	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. This action is responsive to the amendment filed on December 6 2004. Claims 1-24 represent a method, software and apparatus for a "Broadcast Communication System with Dynamic Client-Group Membership." Claims 1, 3, 4, 8, 10, 11, 15-19 and 23-24 were amended. Claims 1-24 are pending.

Response to Arguments

2. Applicant's arguments filed on December 6 2004 have been fully considered but they are not persuasive. In response to Applicant's arguments, 37 CFR § 1.111(c) requires applicant to "clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections." Furthermore, said arguments are moot in view of the new ground(s) of rejection.

3. The dependent and non-amended claims stand rejected as articulated in the First Office Action and all objections not addressed in Applicant's response are herein reiterated. Applicant is advised that only the significant amendments are herein addressed.

Claim Objections

4. Claim 23 is objected to because of the following informality: the claim as written contains more than one preamble. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 8, 10, 11, 15, 16, 19 and 23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Rochberger (US 6,262,984) in view of Modiri et al. (U.S. 6,192,401.)

Rochberger teaches the invention substantially as claimed including a method that provides a solution to the problem of overlapping branches in a point to multipoint call. (See abstract)

Claim 1:

(Currently amended) A method comprising:

receiving a group membership file from a host, said group membership file including a plurality of group identifiers, each group identifier associated with a corresponding group, a corresponding expiration indicator, and one or more member identifiers; and

Rochberger does not explicitly suggest associating expiration indicators with group identifiers. However, Modiri does teach cluster membership, a group identifier associated with a corresponding group. See col. 6, lines 25-44. Furthermore, Modiri discloses corresponding expiration indicator as weighing values both static and dynamic throughout. See col. 6, lines 45-col. 7, line 20.

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of broadcast communication system taught by Rochberger with the system for determining membership taught by Modiri because it would prevent overlapping branches resulting in an optimized network.

Claim 3:

(Currently amended) The method of claim 1, wherein the plurality of group identifiers includes a second group identifier associated with a member identifier and a second expiration indicator, and

Rochberger does not explicitly suggest associating second expiration indicators with second group identifiers. However, Modiri does teach cluster membership, a second group identifier associated with a corresponding group. See col. 6, lines 25-44. Furthermore, Modiri discloses corresponding expiration indicator as weighing values both static and dynamic throughout. See col. 6, lines 45-col. 7, line 20.

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of broadcast communication system taught by Rochberger with the system for determining membership taught by Modiri because it would prevent overlapping branches resulting in an optimized network.

Claim 8:

(Currently amended) An article comprising:

receiving a group membership file from a host, said group membership file including a plurality of group identifiers, each group identifier associated with a corresponding group, a corresponding expiration indicator, and one or more member

identifiers; and

Rochberger does not explicitly suggest associating expiration indicators with group identifiers. However, Modiri does teach cluster membership, a group identifier associated with a corresponding group. See col. 6, lines 25-44. Furthermore, Modiri discloses corresponding expiration indicator as weighing values both static and dynamic throughout. See col. 6, lines 45-col. 7, line 20.

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of broadcast communication system taught by Rochberger with the system for determining membership taught by Modiri because it would prevent overlapping branches resulting in an optimized network.

Claim 10:

(Currently amended) The article of claim 8, wherein the plurality of group identifiers includes a second group identifier associated with a member identifier and a second expiration indicator.

Rochberger does not explicitly suggest associating expiration indicators with group identifiers. However, Modiri does teach cluster membership, a group identifier associated with a corresponding group. See col. 6, lines 25-44. Furthermore, Modiri discloses corresponding expiration indicator as weighing values both static and dynamic throughout. See col. 6, lines 45-col. 7, line 20.

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of broadcast communication system taught

by Rochberger with the system for determining membership taught by Modiri because it would prevent overlapping branches resulting in an optimized network.

Claim 15:

(Currently amended) An apparatus comprising:

a group identifier corresponding to one of a plurality of groups and a corresponding expiration indicator;

a membership file to store a first group identifier associated with a first group, the apparatus identification and an associated first expiration indicator;

Rochberger does not explicitly suggest associating expiration indicators with group identifiers. However, Modiri does teach cluster membership, a group identifier associated with a corresponding group. See col. 6, lines 25-44. Furthermore, Modiri discloses corresponding expiration indicator as weighing values both static and dynamic throughout. See col. 6, lines 45-col. 7, line 20.

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of broadcast communication system taught by Rochberger with the system for determining membership taught by Modiri because it would prevent overlapping branches resulting in an optimized network.

Claim 16:

(Currently amended) The apparatus of claim 15, wherein the plurality of membership record includes a membership record including a second group identifier associated with a second group, a member identifier and a second expiration indicator,

Rochberger does not explicitly suggest associating expiration indicators with group identifiers. However, Modiri does teach cluster membership, a group identifier associated with a corresponding group. See col. 6, lines 25-44. Furthermore, Modiri discloses corresponding expiration indicator as weighing values both static and dynamic throughout. See col. 6, lines 45-col. 7, line 20.

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of broadcast communication system taught by Rochberger with the system for determining membership taught by Modiri because it would prevent overlapping branches resulting in an optimized network.

Claim 19:

(Currently amended) A system host comprising:

a group generator to generate membership records in a group membership file ,
each membership record including a member identifier associated with a group identifier
corresponding to one of a plurality of groups and a corresponding expiration
indicator; and

Rochberger does not explicitly suggest associating expiration indicators with group identifiers. However, Modiri does teach cluster membership, a group identifier associated with a corresponding group. See col. 6, lines 25-44. Furthermore, Modiri discloses corresponding expiration indicator as weighing values both static and dynamic throughout. See col. 6, lines 45-col. 7, line 20.

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of broadcast communication system taught

by Rochberger with the system for determining membership taught by Modiri because it would prevent overlapping branches resulting in an optimized network.

Claim 23:

(Currently amended) A system comprising:

a group generator to generate membership records in a group membership file, a each membership record including a member identifier associated with a ' group identifier corresponding to one of a plurality of groups and a corresponding expiration indicator; and

a transmitter to transmit the group membership file;

and

a client comprising:

a receiver to receive messages and the group membership file;

a memory to store an apparatus identification;

a membership file to store first group identifier associated with a first group, the apparatus identification and an associated first expiration indicator;

Rochberger does not explicitly suggest associating expiration indicators with group identifiers. However, Modiri does teach cluster membership, a group identifier associated with a corresponding group. See col. 6, lines 25-44. Furthermore, Modiri discloses corresponding expiration indicator as weighing values both static and dynamic throughout. See col. 6, lines 45-col. 7, line 20.

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the use of broadcast communication system taught by Rochberger with the system for determining membership taught by Modiri because it would prevent overlapping branches resulting in an optimized network.

6. **THIS ACTION IS MADE FINAL.**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel Coffy whose telephone number is (571) 272-3997. The examiner can normally be reached on 8:30 - 5:00 P.M.

Art Unit: 2157

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Emmanuel Coffy, Esq.
Patent Examiner
Art Unit 2157

EC
Jan 13, 2005


ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100